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INTERNATIONAL PRELIMINARY EXAMINATION REPORT PCT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference IP040044	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CN03/00814	International filing date (day/month/year) 24.Sep.2003(24.09.03)	Priority date (day/month/year) 29. Sep.2002 (29.09.02)
International Patent Classification (IPC) or national classification and IPC IPC7: G01N21/17,A61B5/00		
Applicant Tianjin Sunshine Optics Technologies Co., Ltd. et al.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and /or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority ( see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of _____ sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> priority</p> <p>III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty ,inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2)with regard to novelty ,inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application.</p>		

Date of submission of the demand 24.Sep.2003(24.09.03)	Date of completion of this report 16.Feb.2005(16.02.05)
Name and mailing address of the IPEA/CN 6 Xitucheng Rd., Jimen Bridge, Haidian District, 100088 Beijing, China Facsimile No. 86-10-62019451	Authorized officer Song Haifeng Telephone No. 86-10-62085758

Form PCT/IPEA/409(cover sheet)(July 1998)

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/CN03/00814

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

☒ the international application as originally filed☒ the description:

pages 1-9

,as originally filed

pages

,filed with the demand

pages

,filed with the letter of

☒ the claims:

Nos 1-11

,as originally file

Nos

, as amended (together with any statement)under Article 19

Nos

,filed with the demand

Nos

,filed with the letter of

☒ the drawings:

sheets 1-6

,as originally filed

sheets/fig

,filed with the demand

sheets/fig

,filed with the letter of

☐ the sequence listing part of the description:

pages

,as originally filed

pages

,filed with the demand

pages

,filed with the letter of

## 2. with regard to the language ,all the elements marked above were available or furnished to this Authority in the language in which the international application was filed,unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

☐ the language of a translation furnished for the purposes of international search search (under Rule 23.1(b)).☐ the language of publication of the international application(under Rule 48.3(b)).☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application,the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in written form.☐ filed together with the international application in computer readable form.☐ furnished subsequently to this Authority in written form.☐ furnished subsequently to this Authority in computer readable form.☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. ☐ The amendments have resulted in the cancellation of:☐ the description,pages \*☐ the claims Noa.☐ the drawings,sheets/fig5. ☐ This report has been established as if (some of)the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments(Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. This questions whether the claimed invention appears to be novel, to involve an inventive step ( to be non obvious ), or to be industrially applicable have not been examined in respect of :

☐ the entire international application,

☒ claims Nos. 10-11

because:

☐ the said international application, or the said claims Nos. \_\_\_\_\_

relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (indicate particular elements below) or said claims Nos. 10-11  
are so unclear that no meaningful opinion could be formed (specify):

Claim 1 points out that the optical probes are not in contact with the measured sample tissue. Although claim 10 is dependent on claim 1, claim 10 mentions that "but also can carry out contact measurement by the method", which is substantially contradictory to claim 1. Hence, claim 10 is so unclear that no meaningful opinion could be formed.

Claim 11 mentions that "could combine the surface information with the deepness information .....could give the surface information through a calculation ". The scheme is so unclear that no meaningful opinion could be formed.

☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. \_\_\_\_\_

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/CN03/00814**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement:**

Novelty (N)	Claims 1-9	YES
	Claims	NO
Inventive step (IS)	Claims 1-9	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-9	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

1. CN,A,1184936 (MATSUSHITA ELECTRIC WORKS LTD) 17.Jun.1998
2. CN,A,1224163 (KYOTO DAICHI KAGAKU CO LTD ET AL..) 28.Jul.1999
3. US,A,6025597 (STERLING ET AL.) 15.Feb.2000
4. JP,A,2001-299727 (MATSUSHITA ELECTRIC WORKS LTD)30.Oct.2001
5. JP,A,2000-74829(MITSUI CHEM INC) 14.Mar.2000
6. US,A,5676143 (SIMONSEN ET AL.)14.Oct.1997

The documents cited in the International Search Report represent background art.

The invention defined in claims 1 – 9 is not disclosed by any of these documents.

None of the cited documents gives any indication towards the claimed method for non-contact measuring an object and separating surface and deepness information of the medium in the object. No relevant combination of the cited documents would lead a person skilled in the art to the invention claimed in the claims.

Therefore, the invention defined in claims 1 – 9 is novel and considered to involve an inventive step. It is also considered to be industrially applicable.

## 专 利 合 作 条 约

## PCT

国际初步审查报告  
(PCT 条约 36 和细则 70)

REC'D 0-9 MAR 2005

WIPO

PCT

申请人或代理人的档案号 IP040044	关于后续行为 参见“传送国际初步审查报告的通知”(PCT/IPEA/416 表)	
国际申请号 PCT/CN03/00814	国际申请日(日/月/年) 24.9 月 2003 (24.09.03)	优先权日(日/月/年) 29.9 月 2002 (29.09.02)
国际专利分类(IPC)或者国家分类和 IPC 两种分类 IPC7: G01N21/17,A61B5/00		
申请人 天津市先石光学技术有限公司 等		

1. 本国际初步审查单位已作出国际初步审查报告并依照条约第 36 条将其传送给申请人。

2. 本报告共计 4 页, 包括扉页。

☐ 本报告还有附件, 即修改后的并且作为本报告基础的说明书修改页、权利要求书修改页和/或附图修改页, 和/或对本国际初步审查单位所作出的更正页(见 PCT 细则 70.16 和行政规程 607)。

这些附件共计\_\_\_\_\_页

3. 本报告包括关于下列各项的内容:

I ☒ 报告的基础II ☐ 优先权III ☒ 不作出关于新颖性、创造性和工业实用性的意见IV ☐ 缺乏发明的单一性V ☒ 按条约 35(2)关于新颖性、创造性或工业实用性的推断性意见; 支持这种意见的引证和解释VI ☐ 引用的某些文件VII ☐ 国际申请中的某些缺陷VIII ☐ 对国际申请的某些意见

提交要求书的日期 24.9 月 2003(24.09.03)	完成本报告的日期 16.2 月 2005(16.02.05)
国际初步审查单位名称和地址 IPEA/CN 中国北京市海淀区西土城路 6 号(100088) 传真号: 86-10-62019451	受权官员 峰 宋 海峰 印 海 电话号码: 86-10-62085758

## I. 报告的基础

## 1. 关于国际申请中各个部分：\*

☒ 原始提交的国际申请。

☒ 说明书, 第 1-9 页, 原始提交的,  
第 页, 要求书提交的,  
第 页, 的信件提交的。

☒ 权利要求, 第 1-11 项, 原始提交的,  
第 项, 条约第 19 条修改的(附有说明),  
第 项, 要求书提交的。  
第 项, 的信件提交的。

☒ 附图, 第 1-6 页, 原始提交的。  
第 页, 随要求书提交的,  
第 页, 的信件提交的。

☐ 说明书中的序列列表部分  
第 页, 原始要求提交的,  
第 页, 随要求书提交的,  
第 页, 的信件提交的。

## 2. 关于所使用的语言, 除本项下另有说明外, 本国际初步审查单位所获得的或者已向本国际初步审查单位提交的上述所有部分, 所使用的语言均为提交本国际申请时所使用的语言。

本国际初步审查单位所获得的或向本国际初步审查单位提交的这些部分所使用的语言是 \_\_\_\_\_, 这种语言是

☐ 为了国际检索而提交的译本所使用的语言(细则 23.1(b))。

☐ 本国际申请公布时所使用的语言(细则 48.3(b))。

☐ 为了国际初步审查而提交的译本所使用的语言(细则 55.2 和/或 55.3)。

## 3. 关于本国际申请中所公开的任何核武酸和/或氨基酸的序列, 本国际初步审查是根据下面的序列列表进行的:

☐ 国际申请中所包含的书写形式的序列列表。

☐ 与国际申请同时提交的计算机可读形式的序列列表。

☐ 后来以书写形式向本国际初步审查单位提交的序列列表。

☐ 后来以计算机可读的形式向本国际初步审查单位提交的序列列表。

☐ 已提交了关于后来提交的书写形式的序列列表没有超出原始提交的国际申请所公开的范围的说明。

☐ 已提交了关于以计算机可读的形式记载的信息是与书写形式的序列列表相同的说明。

## 4. 修改删除了以下内容:

☐ 说明书, 第 页

☐ 权利要求, 第 项

☐ 附图, 第 页, 图

5. ☐ 由于(某些)修改被认为超出了原始公开的范围, 如补充栏所示, 因此本报告是按照如同没有修改的情况作出的(细则 70.2(c)). \*\*

\* 按照条约第 14 条答复通知时向受理局提交的替换页, 在本报告中被称为“原始提交的”, 这些替换页不作为本报告的附件, 因为它们没有包含修改(细则 70.16 和 70.17)。

\*\* 任何包含这种修改的替换页, 都必须在第 1 项中指出, 并作为本报告的附件。

## III. 对于新颖性、创造性和工业实用性不作出审查意见

1. 对于:

- ☐ 整个国际申请  
☒ 权利要求(编号)10、11

没有审查要求保护的发明看来是否具有新颖性, 创造性(非显而易见性), 或者工业实用性的问题, 因为:

- ☐ 该国际申请, 或所述权利要求(编号)\_\_\_\_\_  
涉及下列无须进行国际初步审查的主题(详述):

- ☒ 说明书、权利要求或者附图(下面特别指明的部分)或者上述编号 10、11  
的权利要求不清楚, 以致不能形成任何有意义的审查意见(详述):

权利要求 1 指出“光学测头和被测样品组织是非接触的”。权利要求 10 引用权利要求 1, 却说“但也可以通过该方法实现接触式测量”, 前后矛盾, 引用关系不当, 致使权利要求 10 不清楚。

权利要求 11 指出“可以采用表层信息与深层信息相结合的方法……经计算可以获得表层信息”, 技术方案表述不清楚。

- ☐ 权利要求书或所述的编号为 \_\_\_\_\_ 的权利要求没有得到说明书充分的支持,  
以致不能形成任何有意义的审查意见。

- ☐ 对上述编号为 \_\_\_\_\_ 的权利要求没有作出任何国际检索报告。

2. 无法进行有意义的国际初步审查, 因为核甡酸或氨基酸序列表不符合《行政规程》附录 C 中所规定的标准:

- ☐ 没有提交书写形式的序列表或书写形式的序列表不符合标准。  
☐ 没有提交计算机可读形式的序列表或所提交的计算机可读形式的序列表不符合标准。

V. 按条约 35 条(2)关于新颖性、创造性或工业实用性的推断性意见；支持这种意见的引证和解释

1. 意见

新颖性(N)	权利要求 1-9	是
	权利要求	否
创造性(IS)	权利要求 1-9	是
	权利要求	否
工业实用性(IA)	权利要求 1-9	是
	权利要求	否

2. 引证和解释 (细则 70.7)

1. CN,A,1184936 (松下电工株式会社) 1998 年 6 月 17 日
2. CN,A,1224163 (株式会社京都第一科学等) 1999 年 7 月 28 日
3. US,A,6025597 (Sterling 等人) 2000 年 2 月 15 日
4. JP,A,2001-299727 (松下电工株式会社) 2001 年 10 月 30 日
5. JP,A,2000-74829 (三井化学株式会社) 2000 年 3 月 14 日
6. US,A,5676143 (Simonsen 等人) 1997 年 10 月 14 日

这些国际检索报告中的引用文献均为背景技术文献。

本发明权利要求 1-9 未被这些文献披露。

没有任何一篇引用文献可以给出针对本发明权利要求 1-9 请求保护技术方案的启示。对于本领域普通技术人员而言，也没有通过组合现有技术得到本发明的启示。

因此，本发明权利要求 1-9 具有新颖性、创造性以及工业实用性。